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STATE OF CALIFORNIA

## Fish and Game Commission

February 18, 2011

This is to provide you with a copy of the notice of proposed regulatory action relative to Section 27.80, Title 14, California Code of Regulations, relating to ocean salmon sport fishing, which will be published in the California Regulatory Notice Register on February 18, 2011.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments.

**Ms. Marija Vojkovich, Marine Region Manager, Department of Fish and Game, phone (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations.**

Sincerely,

A handwritten signature in cursive script that reads "Sherrie Fonbuena".

Sherrie Fonbuena  
Associate Governmental Program Analyst

Attachment

## **TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 220, 240, 316.5 and 2084 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 316.5 and 2084 of said Code, proposes to amend Section 27.80, Title 14, California Code of Regulations, relating to ocean salmon sport fishing regulations.

### **Informative Digest/Policy Statement Overview**

The Pacific Fishery Management Council (PFMC) annually reviews the status of west coast salmon populations. As part of that process, it recommends ocean salmon fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan (FMP). These recommendations coordinate west coast management of sport and commercial ocean salmon fisheries in the Federal fishery management zone (3 to 200 miles offshore) off Washington, Oregon and California. These recommendations are subsequently implemented as ocean fishing regulations by the National Marine Fisheries Service.

California's sport fishing regulations will need to conform to the new Federal regulations to achieve optimum yield in California under the FMP. The Fish and Game Commission (Commission) adopts regulations for the ocean salmon sport fishery in State waters (zero to three miles offshore) which are consistent with Federal fishery management goals and are effective at the same time.

### **PFMC Regulatory Outlook**

On March 10, 2011, the PFMC will develop the ocean salmon fisheries regulatory options for public review and the final PFMC regulation recommendations will be made on April 14, 2011. The various ocean salmon sport fishery alternatives that the PFMC will examine in the process of adopting options may include:

1. the minimum size of salmon that may be retained;
2. the number of rods anglers may use (e.g., one, two, or unlimited);
3. the type of bait and/or terminal gear that may be used (e.g., amount of weight, hook type, and type of bait or no bait);
4. the number of salmon that may be retained per angler-day or period of days;
5. the definition of catch limits to allow for combined boat limits versus individual angler limits;
6. the allowable fishing dates and areas; and
7. the overall number of salmon that may be harvested, by species and area.

### **Commission Regulatory Outlook**

Although there are no PFMC regulatory options to review at this time, the PFMC March options will serve as the basis for the Commission's 2011 regulatory action affecting the State's ocean salmon sport fishery. There exists a possibility of continued ocean water closures off California due to low Chinook salmon returns to the Central Valley River System and/or the Klamath River Basin in 2010.



Further Commission actions affecting the ocean salmon sport fishery may be developed after the annual PFMC reports, *Review of 2010 Ocean Salmon Fisheries* and *Preseason Report I Stock Abundance Analysis for 2011 Ocean Salmon Fisheries*, are available in late February 2011.

### **Present Regulations**

Current regulations had recreational salmon fishing north of Horse Mountain including Humboldt Bay from May 29 to September 6, 2010. Between Horse Mountain and Point Arena, there was recreational salmon fishing from April 3 to September 6, 2010. All areas south of Point Arena had recreational salmon fishing season from April 3 to September 6, 2010 with 7 days per week until April 30 and 5 days per week running Thursday to Monday from May 1 to September 6. All recreational salmon fishing is currently closed until further action by the PFMC and/or the Commission.

### **Proposed Regulations**

For public notice purposes to facilitate Commission discussion, the Department of Fish and Game (Department) is proposing three regulatory options to encompass all possible actions for Commission consideration:

- 1) All areas remain closed to salmon fishing (no change option),
- 2) Varied levels of salmon fishing in all areas, and
- 3) Automatic conformance with federal regulations to facilitate in-season changes and emergency actions.

The proposed changes from current regulations are shown below:

#### Option 1 - No fishing in all areas

This is the no change option as all salmon fishing seasons are currently closed in the Section 27.80 regulations.

#### Option 2 - Varied levels of salmon fishing in all areas

The date ranges in the following areas are proposed to encapsulate all possibilities of the Commission final action on the PFMC 2011 recommendations in mid-April. This approach will allow final State ocean salmon regulations to be effective at the same time as salmon regulations in federal ocean waters.

- (1) For the all waters of the ocean north of Horse Mountain and in Humboldt Bay: The season, if any, may occur within the range of May 1 - September 30. The exact opening and closing dates, and the length of the season will be determined in April by the PFMC.
- (2) For the area between Horse Mountain and Point Arena: The season, if any, may occur within the range of May 1 - November 13. The exact opening and closing dates, and the length of the season will be determined in April by the PFMC.
- (3) For the area between Point Arena and Pigeon Point: The season, if any, may occur within the range of May 1 - November 13. The exact opening and closing dates, and the length of the season will be determined in April by the PFMC.

- (4) For the areas between Pigeon Point and Point Sur: The season, if any, may occur within the range of May 1 - October 2. The exact opening and closing dates, and the length of the season will be determined in April by the PFMC.
- (5) For the areas south of Point Sur: The season, if any, may occur within the range of May 1 - October 2. The exact opening and closing dates, and the length of the season will be determined in April by the PFMC.
- (6) Minimum Size Range:
  - a. North of Horse Mountain: The minimum size may range from 20 to 24 inches total length.
  - b. South of Horse Mountain: The minimum size may range from 20 to 24 inches total length.

Option 3 – Automatic conformance with federal regulations

The Department is proposing this option to replace the existing regulations for Commission consideration. Significantly more stakeholder and public involvement takes place each year during the annual Federal PFMC salmon regulatory process. This option is included to reduce administrative workload on Department and Commission staff and to allow for quicker implementation of season opening date regulations, since the Federal process is far more expedient than the State's.

The Commission's final action on ocean salmon fishing in late April each year is almost always limited to adopting state regulations that exactly mirror Federal regulations that have already been approved by PFMC earlier in the month of April. This option proposes automatic conformance of State ocean salmon regulations with Federal regulations. This approach will ensure that State ocean salmon regulations are effective at the same time as salmon regulations in Federal ocean waters and would simplify application of Federal emergency or in-season action to State regulations.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Embassy Suites Los Angeles International Airport-North, 9801 Airport Boulevard, Los Angeles, California, on Thursday, March 3, 2011, at 8:30 a.m., or as soon thereafter as the matter may be heard. ✓

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Lake Natoma Inn, 702 Gold Lake Drive, Folsom, California, on Thursday, April 7, 2011, at 8:30 a.m., or as soon thereafter as the matter may be heard. ✓

**NOTICE IS FURTHER GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Fish and Game Commission Conference Room, State of California Resources Building, 1416 Ninth Street, Room 1320, Sacramento, California, on Thursday, April 21, 2011, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before April 15, 2011 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on April 20, 2011. All comments must be received no later than April 21, 2011, at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address. ✓



The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Jon K. Fischer, Acting Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Jon K. Fischer or Sherrie Fonbuena at the preceding address or phone number. **Marija Vojkovich, Marine Region Manager, Department of Fish and Game, (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

#### Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Jon K. Fischer  
Acting Executive Director

Dated: February 8, 2011